

## § 101-8.302

## 41 CFR Ch. 101 (7-1-00 Edition)

this subpart, are made applicable to and incorporated into this subpart.

### § 101-8.302 General prohibitions.

No qualified handicapped persons shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal assistance from GSA.

### § 101-8.303 Specific prohibitions.

(a) A recipient, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(1) Deny a qualified person the opportunity to participate in or benefit from the aid, benefit, or service;

(2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided others;

(4) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless the action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or services to beneficiaries of the recipient's program;

(6) Deny a qualified handicapped person the opportunity to participate as a member of planning committees, advisory boards, or other groups; or

(7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(b) For purposes of this subpart, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement in the most integrated setting appropriate to the person's needs.

(c) Despite the existence of permissible separate or different programs or activities, a recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different.

(d) A recipient may not, directly or through contractual or other arrangements, use criteria or methods of administration that:

(1) Have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap;

(2) Have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons; or

(3) Perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(e) In determining the site of a facility, an applicant for assistance or a recipient may not make selections that:

(1) Have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives Federal assistance from GSA; or

(2) Have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(f) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased, or rented, or otherwise acquired, in whole or in part, with Federal assistance.

## Federal Property Management Regulations

## § 101-8.305

(g) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this subpart.

(h) Recipients shall take appropriate steps to ensure that communications with the donees, applicants, employees, and handicapped persons participating in federally assisted programs and activities or receiving aid, benefits, or services are available to persons with impaired vision and hearing. Examples of communications methods include: Telecommunication devices for the deaf (TDD's), other telephonic devices, provision of braille materials, readers, and qualified sign language interpreters.

(i) The enumeration of specific forms of prohibited discrimination in this section does not limit the generality of the prohibition in § 101-8.302 of this subpart.

### **§ 101-8.304 Effect of State or local law or other requirements and effect of employment opportunities.**

(a) The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this subpart is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

### **§ 101-8.305 Employment practices prohibited.**

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to employment discrimination under any program or activity to which this subpart applies.

(b) A recipient shall make all decisions concerning employment under

any program or activity to which this subpart applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations providing training and apprenticeship programs.

(d) The provisions of this subpart apply to:

(1) Recruitment, advertising, and processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick or otherwise;

(6) Fringe benefits available by virtue of employment, whether administered by the recipient or not;

(7) Selection and provision of financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer-sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(e) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.